

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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**FISCAL IMPACT STATEMENT**

**LS 7540**

**BILL NUMBER:** SB 528

**NOTE PREPARED:** Feb 13, 2009

**BILL AMENDED:** Feb 12, 2009

**SUBJECT:** School Scholarship Tax Credit.

**FIRST AUTHOR:** Sen. Yoder

**FIRST SPONSOR:**

**BILL STATUS:** CR Adopted - 1<sup>st</sup> House

**FUNDS AFFECTED:** X **GENERAL**  
**DEDICATED**  
**FEDERAL**

**IMPACT:** State

**Summary of Legislation:** (Amended) *School Scholarship Tax Credit*: This bill provides that a taxpayer is entitled to a state tax credit for a contribution to a scholarship granting organization. It provides that the contribution must be used by the scholarship granting organization in a scholarship program to provide scholarships to eligible students. It specifies that the amount of a taxpayer's credit is equal to 50% of the amount of the contribution made to the scholarship granting organization for a school scholarship program. It limits the total amount of tax credits that may be awarded to \$5 M in any state fiscal year.

The bill defines "eligible student" as an individual who:

- (1) has legal settlement in Indiana;
- (2) is between 5 and 22 years of age;
- (3) either has been or is currently enrolled in a participating school;
- (4) either is a member of a household with an annual income of not more than 200% of the amount required for the individual to qualify for the federal free or reduced price lunch program or the individual received a scholarship in the immediately preceding school year or school term and qualified under the income requirements in the first year that the individual received a scholarship; and
- (5) meets at least one of the following conditions:
  - (A) The individual is enrolling in kindergarten.
  - (B) The individual was enrolled in a public school during the school year preceding the first school year for which a scholarship granting organization provides a scholarship.
  - (C) The individual received a scholarship from the Educational CHOICE Charitable Trust for the 2008-2009 school year.
  - (D) The individual received a school scholarship for the previous school year.

*Department of State Revenue (DOR):* The bill sets forth a process for the DOR to certify a scholarship program administered by a scholarship granting organization.

*Participating Schools:* The bill specifies that a participating school may be a public or nonpublic school that an eligible student is required to pay tuition or transfer tuition to attend. It requires a participating school to either administer the ISTEP tests or administer another nationally recognized and norm-referenced assessment of the school's students.

*Scholarship Granting Organizations:* The bill provides that a scholarship granting organization must: (1) distribute at least 90% of the total amount of contributions as school scholarships to eligible students; and (2) distribute 100% of any income earned on contributions as school scholarships to eligible students. It provides that the scholarships are used for tuition (including transfer tuition) and fees that would otherwise be charged by a participating school to eligible students or parents of eligible students. It requires a scholarship granting organization to contract with an independent certified public accountant for an annual financial audit of the scholarship granting organization. It requires the scholarship granting organization to provide a copy of the annual financial audit to the DOR and to make the annual financial audit available to a member of the public upon request.

The bill also provides that a program may not be certified as a school scholarship program if the program: (1) limits a recipient of a school scholarship to attending specific participating schools; or (2) limits the ability of a recipient of a school scholarship to change attendance from one participating school to another participating school.

**Effective Date:** (Amended) Upon passage.

**Explanation of State Expenditures:** (Revised) *Department of State Revenue (DOR):* The DOR estimates that costs resulting from the provisions in this bill could be between \$200,000 to \$300,000, and may require two or three full-time staff.

The DOR will incur additional expenses to revise tax forms, instructions, and computer programs to reflect the new tax credit. The DOR is also required to provide the following information on their website: (1) the credit application; (2) the time line for receiving the credit; and (3) the amount of credits awarded during the current calendar year. Contributors will receive a receipt from a scholarship granting organization that must be prescribed by the DOR, and include the amount of the contribution that is designated for use in a scholarship program. The DOR must also certify all qualifying applicants for certification as scholarship granting organizations and maintain a publicly available list of school scholarship programs that are certified as eligible to participate in the credit program. If a scholarship granting organization is suspected of fraud, then the DOR may conduct either a financial review or an audit of the organization. This bill provides for the DOR to adopt temporary rules to implement the new chapter added, IC 20-51, which pertains to educational scholarships.

*Tuition Support:* The cost of state tuition support could potentially decrease to the extent that scholarships shift students from public to private schools. Any savings could potentially offset the cost of the tax credit to the extent that the tax credit encourages new contributions that otherwise would not have occurred. Any potential savings realized from fewer students attending public schools would depend on future tuition support formulas and those reduced expenditures not being reallocated to other areas.

**Explanation of State Revenues:** (Revised) Summary - This bill provides a nonrefundable tax credit to

individuals and corporations that make contributions to scholarship granting organizations beginning in tax year 2010. The amount of credits that will be claimed and the resulting fiscal impact on the state General Fund beginning in FY 2011 is indeterminable. However, the amount of credits granted may not exceed \$5 M in any fiscal year.

The credit is equal to 50% of the amount of the charitable contribution, and may be taken against the Individual and Corporate Adjusted Gross Income (AGI) Tax, the Financial Institutions Tax (FIT), and the Insurance Premiums Tax (IPT). The tax credit may not be carried back or carried forward. Revenue from the Individual and Corporate AGI Tax, the FIT and the IPT is distributed in the state General Fund.

(Revised) Background Information - If 5,000 individuals or corporations donate \$500 each, then the revenue loss would be \$1.25 M. If 10,000 individuals or corporations donate \$1,000 each, then the revenue loss would be \$5 M. Charitable contributions must be made to school scholarship programs established by scholarship granting organizations to assist in payment of tuition, transfer tuition, and fees for eligible students.

Currently, there are approximately 7,770 students attending schools where tuition and fees were required and who qualified for the federal free or reduced price lunch program. This number has increased by approximately 0.22% since FY 2005. The average cost of education per student was approximately \$6,350 for FY 2008. Assuming the average cost of education per student, approximately 1,600 students could receive support from contributions of \$10 M—the maximum amount of contributions that would be eligible for the tax credit each fiscal year.

(Revised) Eligible Students: The bill defines an eligible student as an individual who:

(1) is an Indiana resident; (2) is between ages 5 and 22; (3) either has been or is currently enrolled in a participating school; (4) either lives in a household with an annual income of not more than 200% of the amount required for federal free or reduced price lunch or received a scholarship in the immediately preceding school year or term and met the income requirement; and (5) is either enrolling in kindergarten, was enrolled in a public school during the school year preceding the first school year for which a scholarship granting organization provided a scholarship, received a scholarship from the Educational CHOICE Charitable Trust for the 2008-2009 school year, or received a school scholarship for the previous year.

(Revised) Participating Schools: The bill defines participating schools as public and nonpublic schools that: (1) an eligible student is required to pay tuition or transfer tuition to attend; (2) voluntarily agrees to enroll an eligible student; (3) is accredited by either the state board or a national or regional accreditation agency that is recognized by the state board; and (4) administers the tests under the Indiana Statewide Testing for Educational Progress (ISTEP) program or administers another nationally recognized and norm-referenced assessment of the school's students.

#### **Explanation of Local Expenditures:**

#### **Explanation of Local Revenues:**

**State Agencies Affected:** DOR.

**Local Agencies Affected:**

**Information Sources:** Tom Conley, DOR, 317-232-2107; Indiana Department of Education, Indiana K-12 Education Data, <http://www.doe.state.in.us/>.

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